

Minutes
Jefferson County Board of Zoning Appeals
Thursday, February 21, 2013

The Jefferson County Board of Zoning Appeals met on Thursday, February 21, 2013. The meeting was held in the Charles Town Library meeting room located at 200 East Washington Street, at the side entrance of Samuel Street in Charles Town, West Virginia. Unless otherwise noted, all requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

Board members Jeff Bresee, Chairman; Christy Huddle, Vice Chair; Tyler Quynn and Ed Kelly were present. Staff members present were: Jennifer M. Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Ms. Huddle motioned to commence the meeting. Mr. Kelly seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:14 p.m.

Ms. Hartman swore in the individuals who indicated they would be giving testimony.

1. Approval of the minutes from the January 8, 2013 meeting.

Ms. Huddle motioned to approve the minutes. Mr. Quynn seconded the motion. The following edits were requested:

- a) Page 2, paragraph 3, line 2, change the word *that* to *then*.
- b) Page 2, paragraph 3, line 3, remove the word *that*
- c) Page 2, paragraph 3, line 8, insert the word *variances* behind *requests*.
- d) Page 2, paragraph 3, line 12, insert the word *stormwater* behind *pond*.
- e) Page 2, paragraph 9, line 2, insert *in response to* after the word *not*.
- f) Page 3, paragraph 3, line 4, insert the word *area* in front of the word *west*.
- g) Page 4, paragraph 8, line 2, insert the word *the* behind *approved*.

Mr. Bresee called for a vote which carried unanimously.

Mr. Bresee explained to the public how the meeting would be conducted.

2. Swearing in of members of the public intending to provide testimony.

Ms. Hartman swore in the individuals who indicated they would be giving testimony at the onset of the meeting.

3. Variance request by applicant, Christopher L. Rankin (Rankin Properties, LLC), from Section 3.2.G to allow for an additional 18-month extension of the Conditional Use Permit for the Shepherdstown Professional Center project (#Z07-03). The Conditional Use Permit expired on January 11, 2013. Property location: the intersection of Rt. 480 and the Rt. 45 Bypass in Shepherdstown, WV. District: Shepherdstown (09); Map: 8; Parcel: 8.1; Zoned: Residential-Growth; Size: 3.56 acres; File: #ZV13-02.

Christopher Rankin presented the request to the Board. Mr. Rankin explained that his company, Christian Caine Jewelers, was currently occupying a 4,000 square foot unit within the Maddex Square shopping center and is planning on occupying additional square footage within the planned Professional Center once it is constructed; however, he needs additional tenants to offset the cost of

the project. Mr. Barney reviewed the original date of issuance of the Conditional Use Permit and stated there had been two previous extensions granted by the Board.

Mr. Bresee called for public comment. There was no public comment.

4. Variance requests by applicant, the Bavarian Inn, represented by Richard Klein, Alpha Associates, Inc. from the following sections:
 - i. Section 5.6.D.2: Reduce the side setback for a commercial site greater than 1.5 acres from 50' to 20' (File #ZV13-04)
 - ii. Section 5.6.D.3: Reduce the rear setback for a commercial site greater than 1.5 acres from 50' to 16' (File #ZV13-05)
 - iii. Section 4.6.B: Reduce the side distance requirement for a commercial use adjacent to a residential use from 75' to 20' (File #ZV13-06)
 - iv. Section 4.11.A: Eliminate the 10' screened buffer requirement for a commercial use adjacent to a commercial use (adjacent use is the Bavarian Inn Main Facility) (File #ZV13-07)
 - v. Section 4.6.B.1: Reduce the rear distance requirement for a commercial use adjacent to a commercial use in the Residential Growth Zone from 75' to 16' (adjacent use is the Bavarian Inn Main Facility) (File #ZV13-08)

Richard Klein presented the variances to the Board explaining that the applicant was seeking to remove the existing pool and replace it with a pool that met the 2010 Americans with Disabilities Act. Mr. Klein stated the proposed poolside building was intended to promote hotel guest safety because the present situation requires guests to traverse the parking lot in order to go back to their rooms when needing restroom facilities or to get refreshments. The new facilities will have restroom accommodations and will allow guests to purchase refreshments at the poolside building. Mr. Klein explained that the proposed location of the pool would be within the general area of the existing pool and therefore the required plumbing facilities were already in place. Mr. Klein addressed the Boards' concerns regarding buffering by stating there was an existing board fence along the property line, that the adjacent property had established pine trees and that additional landscaping would be provided. Mr. Klein submitted a schematic of the proposed layout for the Boards' review. Mr. Kelly asked if the proposed deck would look down into the adjacent property owner (Adkins) yard due to the topography. Mr. Klein explained that the property would be lowered approximately 6 feet prior to construction. Ms. Huddle expressed concern that the sale and consumption of onsite alcohol may create a disturbance in the evening. Mr. Klein stated the projected closing time for the pool would be at dusk. Mr. Barney confirmed that the existing pool is a nonconforming use and that the pool house would be a new use.

Mr. Bresee called for public comment. There was no public comment.

Ms. Huddle motioned to go into deliberative session at 3:47 p.m. Mr. Quynn seconded the motion, which carried unanimously.

Mr. Kelly motioned to come out of deliberative session at 3:57 p.m. Ms. Huddle seconded the motion, which carried unanimously.

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3. Variance request by applicant, Christopher L. Rankin (Rankin Properties, LLC), from Section 3.2.G to allow for an additional 18-month extension of the Conditional Use Permit for the Shepherdstown Professional Center project (#Z07-03). The Conditional Use Permit expired on January 11, 2013.

Mr. Kelly motioned to approve the above referenced variance. Ms. Huddle seconded the motion, which carried unanimously.

4. Variance requests by applicant, the Bavarian Inn, represented by Richard Klein, Alpha Associates, Inc. from the following sections:

- i. Section 5.6.D.2: (File #ZV13-04)

Ms. Huddle motioned to reduce the side setback of the poolside building for a commercial site greater than 1.5 acres from 50' to 20'. Mr. Quynn seconded the motion, which carried unanimously.

- ii. Section 5.6.D.3: (File #ZV13-05)

Ms. Huddle motioned to reduce the rear setback of the poolside building for a commercial site greater than 1.5 acres from 50' to 16'. Mr. Quynn seconded the motion, which carried unanimously.

- iii. Section 4.6.B: (File #ZV13-06)

Ms. Huddle motioned to reduce the side distance requirement of the poolside building for a commercial use adjacent to a residential use from 75' to 20'. Mr. Quynn seconded the motion, which carried unanimously.

- iv. Section 4.11.A: (File #ZV13-07)

Ms. Huddle motioned to approve the variance request for the poolside building to eliminate the 10' screened buffer requirement for a commercial use adjacent to a commercial use. Mr. Quynn seconded the motion, which carried unanimously.

- v. Section 4.6.B.1: (File #ZV13-08)

Ms. Huddle motioned to approve the variance request for the poolside building to reduce the rear distance requirement for a commercial use adjacent to a commercial use in the Residential Growth Zone from 75' to 16'. Mr. Quynn seconded the motion, which carried unanimously.

Ms. Huddle motioned that the staff treat all the requests as one application and for the applicant to be charged one fee. Mr. Kelly seconded the motion, which carried unanimously.

Ms. Hartman asked for clarification on when the 18-month conditional use permit extension started from. The Board determined that the start date was from the date of the meeting.

5. Director's Report

Ms. Brockman updated the Board on the upcoming Ethics and Roberts Rules of Order Training on April 11, 2013, the status of the Envision Jefferson 2035/2014 Comprehensive Plan and recent Planning/County Commission actions.

6. Legal Update. None.

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7. Signing of written decisions from prior Board of Zoning Appeals meetings.

- a) Variance request by Grant Wetmore, applicant, on behalf of the Bank of Charles Town, property owner, regarding the creation of internal lot lines and their corresponding setbacks for 340 Business Center (04-34) found in Section 4.11-1, with more specific reference located in the following Sections (i) Section 4.11(A): requires a 10' landscape buffer between commercial uses - requesting a reduction from 10' to 0'; (ii) Section 5.6(D)2: requires a 25'/50' building setback (depending on the resulting lot size) between commercial lots – requesting a reduction to a minimum of 18'; (iii) Section 5.6(D)5: requires a 10' setback for driveways, parking areas and internal access drives – requesting a reduction from 10' to 0'. Meeting was held 01/17/13. Mr. Breese signed the Findings of Fact and Conclusions of Law.
- b) Variance request by Peter Corum, applicant, on behalf of Twin Oaks Subdivision, LLC and Ed Slonaker, property owners, regarding existing internal lot lines and the required setbacks for Morgan's Grove Market (S12-06) found in Section 4.11-1, with more specific reference located in the following Sections (i) Section 4.11(A) - Providing a landscape buffer along the side and rear yards from 10' to 0'; (ii) Section 5.6(D) - The following are Yard Requirements for an approved commercial use (1) Front yard building setbacks from 25' to 0'; (2) Side yard building setbacks from 50' to 0'; (3) Rear yard building setbacks from 50' to 0'; (4) Parking, Driveway and Internal Access Drive Front Setbacks 15' to 0'; (5) Parking, Driveway and Internal Access Drive Side and Rear Setbacks 10' to 0'. Meeting was held 01/17/13. Additional changes to the Findings of Fact draft needed to be made. It was determined that once prepared, Mr. Breese would sign on the Board's behalf.

8. Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:21 p.m. Mr. Kelly seconded the motion, which carried unanimously.

An audio transcript of this meeting can be found at the Department of Zoning and on the Department's website at www.jeffersoncountywv.org. These minutes were prepared by Jennilee Hartman, Zoning Clerk.